

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
APPLE MORTGAGE CORP.,

Plaintiff,

-against-

RICHARD BARENBLATT, KEITH FURER,
DAVID BREITSTEIN and KEVIN UNGAR,

Defendants.
----- X

Civil Action No. 13 CV 9233 (JGK)

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the accompanying Affidavit of Richard C. Schoenstein, dated June 19, 2015, and the exhibits thereto, upon the Affidavit of Richard Barenblatt, dated June 16, 2015, and the exhibits thereto, upon the Affidavit of David Breitstein, dated June 17, 2015, and the exhibits thereto, upon the Affidavit of Keith Furer, dated June 18, 2015, and the exhibits thereto, upon the Affidavit of Kevin Ungar, dated June 19, 2015, and the exhibits thereto, upon the Rule 56.1 Statement of Undisputed Material Facts in Support of Defendants' Motion for Summary Judgment, upon the Memorandum of Law in Support of Defendants' Motion for Summary Judgment, and upon all prior pleadings and proceedings had herein, Defendants will move this Court at a date and time to be determined for an order granting Defendants' Motion for Summary Judgment and enter an order:

1. granting summary judgment on Defendants' First Cause of Action (Breach of Contract), Fourth Cause of Action (New York State Labor Law for Commissions) and Fifth Cause of Action (New York State Labor Law for Improper Deductions), and ruling that the commissions paid to Defendants were in breach of the Compensation Agreements and in violation of the Labor Law, and
 - a. with respect to commissions and bonuses owed but not paid upon Defendants' departure from Apple, awarding damages as follows:
Barenblatt - \$76,366.42; Breitstein - \$15,827.72; Furer - \$63,826.50;

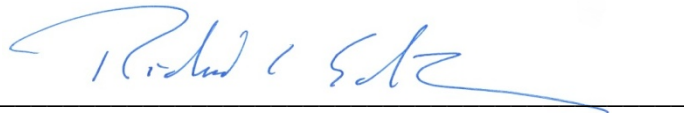
and Ungar - \$26,621.00, along with interest at the New York statutory rate, attorney's fees in an amount to be determined in subsequent proceedings, and double damages under the Labor Law;

- b. with respect to commissions paid in the years prior to Defendants' departure from Apple, reserving for trial judgment on the amount of compensatory damages, but ruling that Defendants are entitled to interest at the New York statutory rate, attorney's fees in an amount to be determined in subsequent proceedings, and liquidated damages in an amount equal to 100% of the compensatory damages under the Labor Law;
2. granting summary judgment dismissing Apple's claims, in their entirety, for lack of standing;
3. granting summary judgment dismissing Apple's claims for compensatory damages, punitive damages and/or attorney's or consultant's fees;
4. granting summary judgment dismissing each of Apple's substantive claims as a matter of law; and
5. granting such other and further relief as the Court may find just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the schedule ordered by the Court, answering papers, if any, are required to be filed by July 10, 2015.

Dated: New York, New York
June 19, 2015

SATTERLEE STEPHENS BURKE & BURKE LLP



Richard C. Schoenstein
230 Park Avenue
Suite 1130
New York, NY 10169
(212) 404-8707
rschoenstein@ssbb.com

*Attorney for Defendants
Richard Barenblatt, Keith Furer,
David Breitstein and Kevin Ungar*